

## **REMARKS**

In response to the Office Action from the Patent Examiner dated 23 March 2005, Applicant respectfully submits this Amendment, Terminal Disclaimer, Replacement Sheet and Remarks. Reconsideration and reevaluation of the objections and rejections is respectfully requested.

5           At page 2, paragraph 1, the Examiner objected to the Abstract of the Disclosure. Applicant has deleted the present Abstract of the Disclosure and submits a new Abstract describing a method of making a plurality of interconnecting vials. Additionally, paragraph [0030] has been amended to set out "Figure 2A and 2B". Also, a replacement sheet is attached hereto which labels the drawings "Figure 2A" and "Figure 2B".

10           At page 2, paragraph 3, the Examiner rejected claims 20 and 26 under the judicially created doctrine of obviousness – type double patenting as being unpatentable over claims 1 through 10 of U. S. Patent 6,101,791 in view of Porfano et al. (U. S. Patent 6,164,044). Additionally, claims 20 through 30 were rejected under the judicially created doctrine of obviousness-type double patenting over claims 1 through 17 of U. S. Patent 6,735,926. Applicant submits with this Amendment, a timely  
15           filed Terminal Disclaimer, executed by the undersigned on behalf of Applicant, Kent A. Louviere. Therefore, Applicant respectfully submits that these rejections have been obviated.

          At page 7, paragraph 8 the Examiner rejects claims 20 through 30 under 35 U.S.C. § 103(a) as being unpatentable over Wright ('173) in view of Beck et al. ('963) and in further view of Porfano et al. ('044), McGahhey ('489) and JP 11-100008.

20           The Examiner states his reasons for rejections at pages 7 through 10 of the Office Action. Applicant respectfully submits that Applicant's claims, as presently amended, are not taught or disclosed by the prior art.

          With reference to Wright '173, Applicant respectfully submits that the '173 teaches the use of a neck ring 16a, 16b. The neck ring expands radially outward. Part of the reason for expanding  
25           radially outward is the inclusion of the threads on the preformed articles (see column 5, lines 51et

seq. of the '173 patent). In operation, the '173 teaches lifting the female core 14 and locks 38 a/b; then lifting neck rings, 16 a/b, slides 36 a/b, and stripper plate 32; then, the slides are pulled apart radially over rear plate 34 to separate halves 16 a/b of neck ring to release the threaded, under cut or beaded portion of the preform (see column 5, line 55 of the '173 patent).

5           With reference to the Beck '963 patent, Beck discloses a valve means for sequentially supplying desired quantities of liquid plastic in order to create multi-layered preformed articles (see column 7, lines 6 et seq. and column 5, lines 65 et seq. of the '963 patent). Beck et al. teaches the use of the split neck ring 9 that expands radially outwards due to the threads contained on the preformed articles (see figure 4, items 59 and 51 of the '963 depicting the thread area). The '963  
10       patent is for the manufacture of preforms (see column 4, line 30).

          Further, Applicant submits that both the Beck '963 and the Wright '173 patents specifically relate to "preform" injection molds. As those of ordinary skill in the art will recognize, the preform necessarily entails further processing of the article before the article can be used. For instance, the preformed article undergoes further blow-molding in order to shape the article to the desired  
15       configuration for consumer use.

          The article of the '963 and '173 could not be used as an encapsulated vial containing a liquid as taught by Applicant. Importantly, the preforms taught by the prior art require a separate cap. This cap represents an independent item that must either be manufactured and/or molded. The molding of this extra piece is not only time consuming but expensive. Applicant's present invention negates  
20       the need for this completely separate item. After filling with a liquid, the article produced by the method claimed can simply be placed in a heat sealer, and the outer diameter and inner diameter surface can be placed within a heat sealer and sealed without the necessity of having a cap and/or lid manufactured and placed thereon. In other words, the open end of the plurality of the interconnected vials is heat sealed so that a closed container that encapsulates the liquid is formed.  
25       The user of Applicant's novel vial would thereafter simply twist the extension top 240A - 240L or

puncture the container will to get to the compound inside.

Porfano '044 discloses a tray 84 that supports an array of syringe barrels 12 (see col. 7, line 21 through 24). The syringe barrel 12 is a single member having a cylindrical side wall 18 (see col. 4, line 61 through 67 and Figs. 1A and 1B). In fact, Porfano '044 teaches away from applicant's invention since Porfano '044 discloses that the syringe barrels 12 are manufactured using conventional plastic or glass molding techniques (see col. 6, line 33 through 39). Porfano does not teach a row of interconnected vials, but instead sets out individual barrels 12 set out in an array. Porfano '044 does not teach a linear injection means for delivery a liquid to a row of interconnected vials situated within a holder tray.

Applicant respectfully submits that this combination is not taught nor suggested by the prior art. In fact, Applicant respectfully submits that the prior art teaches away from Applicant's claimed invention.

Applicant notes that independent claims 1, 9, and 19 have been amended. Applicant respectfully submits that with reference to the obviousness rejections under 35 U.S.C. § 103(a), there must be a basis in art for combining or modifying references. As set out in the MPEP § 2143.01, the mere fact that a reference can be combined or modified does not render the resultant combination obvious unless the prior art also suggest the desirability of the combination. Most, if not all inventions arise from a combination of old elements. Thus every element of the claimed invention may often be found in the prior art. However, identification in the prior art of each individual part claimed is insufficient to defeat patentability of the whole claimed invention. Rather, to establish obviousness based on a combination of the elements disclosed in the prior art, there must be some motivation, suggestion or teaching of the desirability of making the specific combination that was made by the applicant. (See In Re Kotzab, 217 F.3d 1365, 55 USPQ 2d 1313 (Fed. Cir. 2000).

No new matter has been added. For instance, please see page 25, lines 20 et seq., as well

as page 26, lines 1 et seq. of the Specification regarding linear injection means. Also, please see page 21, lines 21 et seq. regarding the row of articles. Please also see Figs. 8, 11, and 12.

Therefore, Applicant respectfully submits that the remaining claims, namely claims 20 and 22 through 30 are now in a position for allowance. Claims 1 through 19 and claim 21 have been canceled without prejudice nor disclaimer as to the subject matter contained therein. Allowance at an early date is respectfully requested. If it would aid in disposition of this matter, the Examiner is kindly requested to contact the undersigned.

Respectfully Submitted,

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Date

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